

**Code of Ordinances, City of Falls Church, Virginia**  
**Abstracted April 2016**

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**CHARTER**

**CHAPTER 2. POWERS**

**Sec. 2.03. Powers relating to public works, utilities and properties.**

In addition to the powers granted by other sections of this Charter the city shall have power:

(a) To lay out, open, extend, widen, narrow, establish or change the grade of, close, construct, pave, curb, gutter, adorn with shade trees, otherwise improve, maintain, repair, clean and light, streets, including limited access or express highways, alleys, bridges, viaducts, subways and underpasses, and make and improve walkways upon streets and improve and pave alleys within the city; and the city shall have the same power and authority over any street, alley or other public place ceded or conveyed to the city or dedicated or devoted to public use as over other streets, alleys and other public places.

...

**CHAPTER 17. PLANNING, ZONING AND SUBDIVISION CONTROL**

**Sec. 17.26. Land subdivision—Powers of city.**

In order to provide for the orderly subdivision of land within the city, there is hereby conferred upon the city the power to adopt regulations and restrictions relative to the subdivision of land in the manner hereinafter provided. Such regulations and restrictions may prescribe standards and requirements for the subdivision of land which may include, but shall not be limited to, the following: the location, size and layout of lots so as to prevent congestion of population, to provide for light and air, and to prevent the hazard of inundation, the width, grade, location, alignment and arrangement of streets and sidewalks with relation to other existing streets, planned streets and the master plan; access for firefighting apparatus; adequate open spaces; adequate and convenient facilities for vehicular parking; easements for public utilities; reservation or dedication of suitable sites for schools, parks and playgrounds; planting of shade trees and shrubs; naming and designation of streets and other public places; laying out, constructing and improving streets, alleys and sidewalks, the installation of public utilities and other physical improvements therein and the conditions under which the cost thereof shall be borne by the developer; and provisions for the guarantee of payment by the developer for the required improvements; procedure for making variations in such regulations and restrictions; requirements for preparing and recording plats of subdivisions including their size, scale, contents and other matters; and for the erection of monuments of specified types for making and establishing property and street, alley, sidewalk and other lines.

**CODE**

**Chapter 10 CABLE TELEVISION**

**ARTICLE III. REGULATION**

**Sec. 10-64. System operations.**

...

(f) Street occupancy

...

(7) A grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect the wires and facilities of the grantee, subject to the regulation, supervision and/or direction of the city or other local governmental authority, including prior notification of the city arborist.

...

(Code 1982, § 7-26; Ord. No. 984, 10-13-1981; Ord. No. 999, 2-22-1982)

## Chapter 15 FEE

### ARTICLE III. DEPARTMENT OF PUBLIC WORKS

#### Sec. 15-37. Public works applications—Urban forestry.

The following applies to fees for public works applications—Urban forestry as noted in the table below:

#### PUBLIC WORKS APPLICATIONS—URBAN FORESTRY

	Fees
Inspections	
• Damage to Public Trees, Per Inch Diameter at Breast Height (DBH)	\$250.00
• Damage to Streetscape Irrigation, fee plus cost of repair	\$300.00 + cost
Tree Preservation Violations	
• 1 <sup>st</sup> Offense	\$350.00
• 2 <sup>nd</sup> Offense	\$450.00
• 3 <sup>rd</sup> Offense	\$1,000.00
• Each Subsequent Offense	\$1,000.00
• Tree Preservation Grading Plan Tree Removal	\$1,000.00
Landscape Installation and Protection (Not associated with a site or grading plan)	
• Bond Management Fee	\$250.00
• New Landscape Inspection (< \$12,000.00 Bond Amount)	\$150.00
• New Landscape Inspection (> \$12,000.00 Bond Amount)	\$400.00
• Existing Tree Preservation (< \$12,000.00 Bond Amount)	\$150.00
• Existing Tree Preservation (> \$12,000.00 Bond Amount)	\$400.00
Tree Contractors	
• Tree Contractor Annual Permit Fee	\$100.00
• Unlicensed Tree Contractor Observed Working in the City	\$500.00
Permits	
• Plant on City Property	\$50.00
• Tree Removal Permit (Independent of approved development plan)	
o Commercial	\$200.00
o Single-Family Residential	\$50.00
Preliminary Tree/Existing Features Survey Review (When Not Part of Subdivision)	\$200.00
Resubmittal of Request for Preliminary Tree/Existing Features Survey Review	\$100.00

(Ord. No. 1858, § 4), 4-25-2011; Ord. No. 1901, 7-22-2013)

## Chapter 28 MISCELLANEOUS OFFENSES

### ARTICLE IV. OFFENSES AGAINST PROPERTY

#### Sec. 28-70. Injury to property.

(a) It shall be unlawful for any person to take and carry away, or destroy, deface or injure, any property, real or personal, not his own. Violation of the provisions of this section, upon conviction, shall be punishable as a class 1 misdemeanor.

It shall be unlawful for any person, without approval of the owner or designated agent, to pick, pull, pull up, tear, tear up, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found, growing or being upon the land of another or upon any land reserved, set aside or maintained by the city as a public park. Violation of the provisions of this section shall, upon conviction, be punishable as a class 3 misdemeanor; provided, however, that the approval of the owner, his agent, tenant or lessee, or the custodian of such park afterwards given in writing or in open court shall be a bar to further prosecution or suit.

(b) If any person unlawfully:

- (1) Destroys, defaces, damages or removes, without the intent to steal, any property, real or personal, not that person's own; or
- (2) Breaks down, destroys, defaces, damages or removes, without the intent to steal:

...

- b. Any monument erected for the purpose of marking the site of any engagement fought during the War Between the States, or for the purpose of designating the boundaries of any city, town, tract of land or any tree marked for that purpose.

Such person shall be guilty of a class 3 misdemeanor; provided that the court may, in its discretion, dismiss the charge if the locality or organization responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

...

(Code 1973, § 24-9; Code 1982, § 22-8; Ord. No. 948; Ord. No. 1834, 9-30-2009)  
State Law reference— Similar state law, Code of Virginia, § 18.2-137.

## **Chapter 33 PROPERTY MAINTENANCE CODE**

### **ARTICLE II. IN GENERAL**

#### **Sec. 33-2. - Tall grass and weeds, brush.**

(a) All exterior property and premises shall be maintained free from weeds, brush or tall grass in excess of 12 inches. Weeds shall not include cultivated flowers, vegetable and ornamental gardens, trees or shrubs or planned and cultivated habitats for which trimming and mowing is not practical.

(b) Noncompliance. In addition to the process and penalties found in sections 33-9 and 33-10, and after proper notice has been given, the City of Falls Church may cause the tall grass, weeds or brush to be removed by city staff or by a licensed contractor, in which case the cost and penalties, if any, shall be collected by the city treasurer's office pursuant to the procedures of that office.

(Ord. No. 1872, 3-12-2012)

#### **Sec. 33-4. Sidewalks, driveways and parking areas.**

All private sidewalks, driveways and parking areas on commercial properties shall be kept in a proper state of repair and maintained free of major cracks, holes or dislodged pavers. All private trees, vegetation, shrubs or similar plantings on commercial and residential properties shall be trimmed so as to not obstruct vehicle or pedestrian passage along a public right-of-way or access to a required parking space, nor shall such plantings violate the visibility requirements of section 48-1103.

(Ord. No. 1872, 3-12-2012)

## **Chapter 34 SOLID WASTE**

### **Sec. 34-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Brush* means any woody waste, including tree branches, small tree stumps, and large shrubs, i.e., too large to fit in a 30-gallon paper yard waste bag, all with a branch or trunk diameter of six inches or less.

*Brush pile* means an accumulation of cuttings or dead portions of trees, brush, or bushes placed in a pile or allowed to lie randomly on the ground, not exceeding the amount needed for kindling.

*Construction and demolition (C&D) debris* means any waste generated during construction, remodeling, repairs, or demolition of buildings, bridges, pavements, and other structures. This category of debris includes but is not limited to, concrete, asphalt, lumber, steel girders, steel rods, wiring, dry wall, carpets, windows, doors, piping, tree stumps and other miscellaneous items.

*Principal recyclable material (PRM)* means the recyclable material from the following list that comprises the majority of a business or commercial property's waste stream: Newspaper, ferrous scrap metal, nonferrous scrap metal, used motor oil, corrugated cardboard, container glass, aluminum, high-grade office paper, mixed paper, tin cans, cloth, automobile bodies, plastic, clean wood, brush, leaves, grass and other arboreal materials. "Principal recyclable materials" do not include large diameter tree stumps.

*Yard waste* means that fraction of municipal solid waste that consists of grass clippings, leaves, brush, and tree and shrub prunings arising from general landscape maintenance.

(Ord. No. 1883, 9-24-2012)

Cross reference— Definitions and rules of construction, § 1-2.

### **Sec. 34-3. Residential solid waste collection.**

...

(c) *Yard waste collection.* Residents receiving city solid waste service shall also receive collection of yard waste. Yard waste shall be collected on a schedule set by the city manager or the city manager's designee and the following solid waste collection regulations shall apply, unless exempted by the city manager for health and welfare reasons:

(1) For seasonal collection only, leaves shall be piled in the right-of-way behind the curb, avoiding sidewalks and storm sewers. Brush, limbs, trash, etc., must not be mixed with the leaves.

(2) Brush must be placed in compostable 30-gallon paper yard waste bags, or placed in containers with a capacity less than 30 gallons, or bundled with cord or twine and placed at the curb, avoiding sidewalks and storm sewers, and not in the gutter. Brush must be cut in lengths not exceeding five feet. No single bundle, bag or container shall weigh more than 50 pounds or be too large or bulky to be loaded safely by one person into the collection vehicle. Branch or trunk diameter shall not exceed six inches in diameter.

(3) Waste from tree trimming or removal done by a contractor shall not be placed within city right-of-way and will not be picked up by the city.

(4) Grass clippings, other small plant material (twigs, ivy, trimmings, etc.), and leaves collected other than during the seasonal collection period must be placed in

30-gallon paper yard waste bags purchased by residents. No single bag shall weigh more than 50 pounds. Yard waste bags shall be placed at the curb, avoiding sidewalks, gutters, and storm sewers. Residents receiving this collection shall pay a service fee to the city. The cost of service shall be set by resolution of the city council. The method of payment shall be determined by the city manager or the city manager's designee.

(5) Yard waste that is not bundled or placed in approved bags as outlined in subsections (d)(2) and (d)(4) of this section will not be collected by the city and may be treated as a special collection item as outlined in subsection (c) of this section, with the resident charged accordingly.

...

(Ord. No. 1883, 9-24-2012)

## **Chapter 35 STORMWATER**

### **ARTICLE I. STORMWATER MANAGEMENT**

#### **Sec. 35-2. Definitions.**

As used in this article, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them by this section:

*Best management practice* or *BMP* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land disturbing activities. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Buffer area* means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

*Chesapeake Bay Preservation Act land disturbing activity* means a land disturbing activity, including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of the city designated as a Chesapeake Bay Preservation Area in accordance with section 35-10.

*Chesapeake Bay Preservation Area* or *CBPA* means any land designated by the city pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-70 et seq., and the Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:74. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

*Development* means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, or the clearing of land for non-agricultural or non-silvicultural purposes.

*Diameter at breast height* or *DBH* means the diameter of the tree measured outside the bark at a point four feet above the ground.

*Impervious land cover* means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are

not limited to: nonvegetated roofs; buildings; streets; parking areas; sidewalks; driveways; swimming pools; recreational surfaces such as tennis courts or basketball courts; and, any concrete, asphalt, or compacted gravel surface.

*Land disturbing activity* means a manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, or excavation except that the term shall not include those exemptions specified in section 35-4.

*Tree* means any self-supporting woody plant which usually provides one main trunk and produces a more or less distinct and elevated head with many branches. For preservation purposes and canopy coverage calculation purposes, a tree shall measure no less than two inches in DBH.

*Tree canopy* means the branches, leaves, or other foliage from any tree measuring no less than two inches in DBH and shrubs measuring no less than five feet in height.

*Tree canopy coverage* means the area surrounding a tree or shrub located within the dripline.

*Woody vegetation* means and includes all trees and shrubs.

(Ord. No. 1915, 3-24-2014; Ord. No. 1928, 9-8-2014)

#### **Sec. 35-6. Stormwater management technical standards.**

(a) *General stormwater management technical standards.* All land disturbing activities regulated pursuant to this article within the city shall comply with the following general technical standards:

- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. In accordance with an approved grading plan, the limits of land disturbance, including clearing or grading, shall be strictly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site.
- (2) Existing indigenous vegetation and trees shall be preserved to the maximum extent practicable, consistent with the proposed use or development, in accordance with chapters 14 and 44, pertaining respectively to environment and vegetation, and as follows:
  - a. Existing trees over two inches in DBH and shrubs greater than five feet in height shall be preserved outside the approved construction footprint consistent with subsection (a)(1) of this section. Diseased or weakened trees, by age, storm, fire or other injury, may be required to be removed, by the director.
  - b. The regulation of any historic, specimen, street, park, memorial and other public trees shall be regulated in accordance with chapter 44, pertaining to vegetation. This may include the bonding of these types of trees in situations where the critical root zone (CRZ) or canopies extend onto the site.
  - c. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs and the installation of utilities.
  - d. Tree preservation shall be in accordance with the City of Falls Church Tree Preservation Standards and Specifications. A copy of the approved plan and the specifications shall be kept on-site at all times.
  - e. Prior to clearing and grading, tree preservation fencing, consistent with the City of Falls Church Tree Preservation Standards and Specifications, signs, or other such material may be required by the director. These preservation

measures shall be installed to protect the CRZ of any woody vegetation to be preserved on the site, as well as to protect the CRZ of any woody vegetation trees on adjacent properties including rights-of-way that extend onto the site.

f. Tree preservation fencing shall remain in place throughout all phases of construction. Fencing shall not be removed until all construction equipment has left the site and written approval is granted by the director.

g. Exceptions may be granted to allow access to the site and work area, with specific conditions established by the director.

h. The storage of equipment, materials, debris, or fill shall not be allowed within the enclosure of the tree preservation fencing.

i. The applicant shall submit, in writing to the director, a verification that all required tree preservation fencing and required preservation measures have been completed. The director shall inspect and approve this verification, within three business days, prior to the issuance of any permits.

(3) Natural groundcover, especially woody vegetation, shall be used to the extent that is practicable, as it is most effective in holding soil in place and preventing site erosion. Adaptability to local conditions without the use of harmful fertilizers or pesticides, and the ability to filter runoff, make the use of indigenous vegetation preferable to non-indigenous plantings.

(4) Land development shall minimize impervious cover associated with the proposed use or development. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential....

...

(Ord. No. 1915, 3-24-2014; Ord. No. 1928, 9-8-2014)

#### **Sec. 35-10. Chesapeake Bay Preservation Areas established.**

(a) *Chesapeake Bay Preservation Areas.* All land within the city is designated as a Chesapeake Bay Preservation Area, which is divided into resource protection areas and resource management areas.

...

(f) *Removal of vegetation in the resource protection area buffer area.* Indigenous vegetation may be removed from the RPA buffer area only as permitted by the director to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows. All requests for vegetation removal shall be submitted in writing to the director for evaluation:

(1) Trees may be pruned or removed as necessary subject to the written approval of the director to provide for sight lines and vistas; provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

(2) Any path shall be constructed and surfaced so as to effectively control erosion.

(3) Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed subject to the written approval of the director, pursuant to sound horticultural practice incorporated into locally adopted standards.

(4) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

...

(h) *Re-establishment of buffer areas.* The buffer area required in subsection (b)(2) of this section shall consist of vegetation that is effective in retarding runoff, preventing erosion,

and filtering nonpoint source pollution from runoff. Where such vegetation is not sufficient to meet this purpose, it shall be established in accordance with this section.

(1) Where buffer areas are to be established, they shall consist of a mixture of shade trees, understory trees, shrubs and groundcovers. Density of the buffer shall be as described in the Riparian Buffers Modification and Mitigation Guidance Manual Restoration and/or Establishment Tables.

(2) Vegetation shall be chosen from the city recommended lists of trees and/or native floodplain species. Wetland plantings, including herbaceous plantings, and/or wetland seed mix shall be used where site conditions warrant. Plant materials and planting techniques shall be in accordance with the City of Falls Church Specifications for Planting.

(3) Where invasive plant species are present, the director may require their removal as part of the re-establishment of the buffer area.

(Ord. No. 1915, 3-24-2014; Ord. No. 1928, 9-8-2014)

### **Sec. 35-15. Erosion and sediment control technical standards.**

(a) *Applicability of Virginia Erosion and Sediment Control Regulations.* The more stringent of the erosion and sediment control performance standards contained in this section, or those contained in the Virginia Erosion and Sediment Control Regulations, 9VAC25-840-40, shall apply to all applications for development, redevelopment, or land disturbance that will disturb 2,500 square feet of land or more. Such standards shall also apply to all applications for development, redevelopment, or land disturbance within RPAs, regardless of the amount of land disturbance.

...

(o) *Exemptions for certain agricultural, horticultural, or forest management activities.* Any person who owns, occupies, or operates private agricultural, horticultural, or forest lands shall not be deemed to be in violation of this article for land disturbing activities, which result from the tilling, planting, or harvesting of agricultural, horticultural or forest crops or products or engineering operations such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches and the like; the utilization of strip cropping, lister furrowing; land drainage; land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick growing, soil-holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

...

(Ord. No. 1915, 3-24-2014; Ord. No. 1928, 9-8-2014)

### **Sec. 35-17. Landscape conservation plan.**

(a) All development, redevelopment, or land disturbance subject to this article shall include a landscape conservation plan. No stormwater management permit shall be approved without an approved landscape conservation plan. The landscape conservation plan shall include a scaled drawing, shall meet all of the requirements of this section, and shall be prepared and/or certified by a landscape architect, arborist, and/or horticulturalist.

(b) *Preliminary vegetative survey.* The plan shall include a preliminary vegetative survey of all existing trees on the site, measuring at least two inches in DBH and shrubs that are greater than five feet in height. A chart shall be provided showing common and botanical name, size, condition, life expectancy, and required preservation measures of all woody vegetation. All trees shall be identified by an International Society of Arboriculture (ISA) certified arborist.

(c) *Existing vegetation preservation plan.* The plan shall include an existing vegetation preservation component that shall illustrate any grade changes or other work adjacent to



trees that would affect them adversely. Specifications shall be provided showing how grade, drainage and aeration will be maintained around vegetation to be preserved to ensure the protection of existing trees and other woody vegetation during clearing, grading and all phases of construction.

(1) Locations of tree preservation fencing, root pruning and other required tree preservation measures shall be shown on the plan.

(2) Proposed vegetation to be removed to create the desired construction footprint shall be clearly illustrated on the plan and labeled as "to be removed." Vegetation to be preserved outside the building envelope shall be shown on the plan and labeled as "to be preserved."

(3) The location of the critical root zone (CRZ) of any vegetation shown on the plan or located on adjacent properties, including city rights-of-way, where the critical root zone (CRZ) extends onto the site, shall be shown on the plan.

(4) Tree canopy coverage calculations provided by woody vegetation pre-development and post-development and/or redevelopment on the site shall be shown on the plan along with the driplines.

(5) The City of Falls Church Tree Standards and Specifications for Planting shall be included on the plan.

(6) Within the RPA buffer, trees and other woody vegetation to be removed for sight lines, vistas, access paths, best management practices, and shoreline stabilization projects shall be shown on the plan.

(d) *Landscape revegetation plan.* The plan shall include a landscape revegetation component that illustrates the proposed locations of vegetation that is required by this article and section 48-1180, tree canopy coverage required on residential lots zoned R1-A, low density and R1-B medium density.

(1) A chart shall be provided listing canopy coverage calculations and any required replacement canopy coverage vegetation pursuant to section 48-1180, tree canopy coverage required on residential lots zoned R1-A, low density and/or R1-B medium density.

(2) A landscape schedule shall be provided that lists species, size, quantity, root condition and any credited tree canopy coverage pursuant to section 48-1180, shall be shown on the plan.

(3) The planting of woody vegetation shall be in accordance with locally approved specifications and these specifications and details shall be included on the plan.

(4) Any required RPA buffer shall be clearly delineated and any woody vegetation to be added to establish, supplement or replace existing vegetation within the RPA buffer, as required under this Code, shall be shown on this plan.

(Ord. No. 1915, 3-24-2014)

## **Sec. 35-22. Failure to comply; penalties and other legal actions.**

(a) Notice of violation; stop work orders; reimbursement of costs.

...

(3) In the event that the violation of the approved landscape conservation plan was an encroachment or evidence of an encroachment into a tree preservation area, the applicant shall submit a mitigation plan subject to the approval of the director. This plan shall list remedial measures and the time within which such measures shall be completed by the applicant to ensure the continued preservation of the existing trees. This may include, but is not limited to, pruning, vertical mulching, and aerating. Bonding of the existing vegetation, in accordance with chapter 44, article II, division 5, may be required by the director.

(4) The director may require the replacement of any vegetation damaged in violation of the approved landscape conservation plan as part of the mitigation plan. The size, species and quantity of the replacement trees shall be calculated by the

director based on the value of the trees removed as calculated by the latest formula published by the International Society of Arboriculture. The required replacement trees shall be included in the "mitigation plan" submitted by the applicant. Bonding of the replacement vegetation, in accordance with subsection 48-1143(b), may be required by the director.

...  
(Ord. No. 1915, 3-24-2014; Ord. No. 1928, 9-8-2014)

## **Chapter 38 SUBDIVISIONS**

### **ARTICLE II. REQUIREMENTS FOR PLATS**

#### **Sec. 38-34. General regulations.**

The following shall be considered minimum requirements and shall be varied only for specific reasons, stated of record by the planning commission in connection with the final approval of the plat to which related:

...  
(7) *Street right-of-way.* Street right-of-way width shall conform to the master plan and the applicable provisions of the chapter pertaining to zoning. No street right-of-way shall be less than 50 feet wide, except where permitted by this chapter. When a subdivision abuts one side of any street the subdivider shall not be required to dedicate more than one-half of any right-of-way necessary to make the street comply with the maximum width fixed for same.

...  
(9) *Trees.* Whenever deemed necessary by the planning commission in consultation with the city arborist, street trees and/or additional screening shall be planted in a manner as approved by the city arborist. All trees to be preserved shall be shown on the final plat.

(Code 1982, § 31-11; Ord. No. 961, 2-23-1981; Ord. No. 999, 2-22-1982; Ord. No. 1792, § 31-11, 8-14-2006)

### **ARTICLE III. PREPARATION OF PLATS**

#### **Sec. 38-58. Preliminary plats.**

Preliminary plats shall be drawn to a scale of not smaller than one inch equals 50 feet and may be of one or more sheets as necessary to show the following information:

...  
(6) Location of all historic trees and specimen trees, as defined in chapter 44 and, further, location of other trees that, in the opinion of the public works director or planning commission, should be preserved.

(Code 1982, § 31-13; Ord. No. 961, 2-23-1981; Ord. No. 999, 2-22-1982)

## **Chapter 42 UTILITIES**

### **ARTICLE II. WATER**

#### **DIVISION 2. WATER CONSERVATION**

##### **Subdivision II. Water Shortage Control Plan**

#### **Sec. 42-89. Restriction of water use.**

At such time as the water use administrator is notified by the coordinator that the emergency stage of the emergency agreement has been declared, and after appropriate legal notice has been given to the general public, the water use administrator is authorized to implement this section by ordering the restricted use or absolute curtailment of use of water for certain nonessential purposes including, but not limited to, the following:

- (1) The use of hoses, sprinklers or other means for sprinkling or watering of shrubbery, trees, lawns, grass, plants, vines, gardens, vegetables, flowers or any other vegetation.

...

The water use administrator shall notify the coordinator of any and all such actions.

(Code 1973, § 31-25; Code 1982, § 29-18(b); Ord. No. 752)

## **Chapter 44 VEGETATION**

### **ARTICLE II. TREES AND SHRUBS**

#### **DIVISION 1. GENERALLY**

##### **Sec. 44-20. Purpose.**

It is the purpose and intent of the city:

- (1) To regulate the removal of trees from public and private property in the city in order to preserve, protect and enhance valuable natural resources entrusted to the state;
- (2) To protect the health, safety and welfare of its citizens;
- (3) To establish standards limiting the removal of and ensuring the replacement of trees sufficient to safeguard the ecological and aesthetic environment necessary to a community;
- (4) To prevent the unnecessary clearing and disturbing of land so as to preserve, as is practicable, the natural and existing growth of vegetation;
- (5) To replace, when feasible, the removed trees with the same, comparable, or improved species;
- (6) To provide protective regulations against hazardous trees and diseased trees or shrubs, and the growth of weeds and brush;
- (7) To control activities relative to trees and plantings upon the streets or public property of the city;
- (8) To establish a permit procedure for tree contractors; and
- (9) To provide for a tree commission.

(Code 1982, § 35-1; Ord. No. 811)

##### **Sec. 44-21. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Arborist or urban forester* means a person trained in arboriculture, forestry, horticulture, landscape architecture and/or related fields, and experienced in the conservation and preservation of native and ornamental trees in the employ of or under contract to the city, duly appointed by the city manager and primarily charged with the responsibility of enforcing the provisions of this article.

*Covered area* means that area which falls within the dripline of any tree, a vertical line extending from the outermost portion of the canopy to the ground.

*Destroy* means to cut down a tree or to perpetrate any intentional or negligent act which will cause a tree to decline or die within a period of two years. The term "destroy" shall include, but is not limited to:

- (1) Damage inflicted upon the root system of a tree by:
  - a. The application of toxic substances;

- b. The operation of equipment and vehicles; or
  - c. The change of natural grade by unapproved excavation or filling within the covered area of a tree; or
- (2) Damage caused by the unapproved alteration of natural physical conditions.

*Development* means any alteration of the natural environment of improved and unimproved real estate which requires the application and approval of a site plan, subdivision plat or development plan related to regulated land disturbance activities and/or requiring permits, including, but not limited to, demolition, grading, filling, excavation and building.

*Historic tree* means a tree which has been determined by the city council to be of notable historic interest because of its age, size or historic association and has been so designated in the official records of the city.

*Redevelopment* means the process of developing land that is or has been previously developed.

*Specimen tree* means a tree which has been determined by the city council to be notable by virtue of its outstanding size and quality for its particular species and of high value because of its type, size, age or other professional criteria and has been so designated in the official records of the city.

*Street tree* means any tree which has been individually designated by the city council and which grows in the street right-of-way or on private property as authorized by the owner and placed or planted there by the city.

*Tree* means any self-supporting woody plant growing upon the earth which usually provides one main trunk and produces a more or less distinct and elevated head with many branches.

- (1) For preservation purposes, a tree shall measure no less than two inches in diameter at six inches above ground level.
- (2) Replacement trees shall measure no less than two inches in diameter at six inches above ground level. The minimum size to be specified on the planting plan shall be two-inch to 2½-inch caliper as specified in the latest edition of the American Association of Nurserymen, American Standard for Nursery Stock, except as permitted in the public facilities manual.

Tree replacement plan means a plan indicating the location, size, quantity, common and botanical name, and type of nursery stock (B and B, BR or container) of replacement trees.

(Code 1982, § 35-2; Ord. No. 811; Ord. No. 1704, 5-14-2001)

Cross reference— Definitions and rules of construction, § 1-2.

State Law reference— Definitions, Code of Virginia, § 10.1-1127.1 B.

#### **Sec. 44-22. Removal or treatment of trees or shrubbery on private grounds.**

(a) The arborist, except in the event of an emergency, shall, in carrying out the duties of the arborist outlined in subsections (b), (c) and (d) of this section, contact the property owner by writing the last known address of such owner, describing the conditions and stating the control necessary for correction and establishing a reasonable time within which the required steps shall be taken on a voluntary basis.

(b) The arborist, under the grant of power to municipalities in the state code, may cause or order to be removed any tree or part thereof on private ground which is in unsafe

condition, or which by reason of its nature is injurious to sewer or other public improvements, or is affected with any injurious fungus, insect or other pest.

(c) The arborist shall also have power to:

- (1) Enter upon any private grounds in the city and to spray or otherwise treat or cause or order to be sprayed or otherwise treated any tree or shrub infected or infested by any parasite, insect or pest, when it shall be necessary in the opinion of the arborist to do so;
- (2) To prevent the breeding or scattering of any parasite; and
- (3) To prevent danger to person or property or to trees and shrubs planted in the public streets or other public places.

(d) Whenever in the opinion of the arborist, trimming, pruning, removal or treatment of any such tree or shrub located on private grounds shall be deemed prudent and necessary and consistent with the standards of the International Society of Arboriculture as outlined in the American National Standards Institute A3000 and Z133.1 Standards, the arborist shall have the power to trim, treat or remove any such tree or shrub, or cause or order the same to be done.

(e) If the required steps are not taken within the specified time, the arborist shall cause or order the same to be done and shall assess the cost to the owner of the property.

(Code 1982, § 35-3; Ord. No. 811; Ord. No. 1659, 10-25-1999)

#### **Sec. 44-23. Activities of public utilities.**

(a) The authority of the arborist shall extend to the control of the activities of utility companies in the matter of treating, trimming, planting or removing trees or shrubs on the public grounds and streets of the city.

(b) It shall be unlawful for any such company to in any manner treat, trim, plant or remove trees or shrubs on any property, grounds or streets of the city without the written permission of the arborist, who is hereby expressly given the right to withdraw any permission where inspection by the arborist indicates that the work has not been or is not being done in compliance with good horticultural standards.

(Code 1982, § 35-5; Ord. No. 811)

Cross reference— Utilities, ch. 29; underground utilities, § 42-231 et seq.

#### **Sec. 44-24. Plantings along streets and public use easements.**

(a) The planting, pruning or other treatment of trees upon the streets and public use easements shall be under the direction of the arborist. No tree upon any street or public use easement in the city shall be destroyed, cut down or otherwise removed without the consent of the arborist. No trees or plants of any kind shall be planted upon any street, public use easement or public property except with the consent of the arborist.

(b) No trees shall be planted at public expense upon private property unless a public use easement has been granted; except, that, with the consent of the owner, trees may be planted upon the line between any street and the abutting private property, and trees may be planted in connection with public works projects which have disturbed private property and where the city has easements, on condition that the planting, pruning, removal or other treatment of the trees so planted shall be under the control of the arborist.

(c) It shall be unlawful to girdle, break, bend, wound, tack signs or notices upon or, in any manner, injure any tree planted upon any public use easement or street or on the line within the corporate limits, except with the approval of the arborist.

(Code 1982, § 35-6; Ord. No. 811)

Cross reference— Streets, sidewalks and other public places, ch. 36.

#### **Sec. 44-25. Violations and penalties; remedies.**

Any person, whether as an owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this article or permits any such violation or fails to comply

with any of the requirements, or who erects any building or who uses any building or any land in violation of any detailed statement of plan submitted by such person and approved under the provision of this article shall be subject to a civil penalty not to exceed \$2,500.00 for each violation. Each day upon which such violation continues shall constitute a separate violation. Furthermore, the arborist, through the city attorney, may apply to the circuit court of the county for injunctive relief to enjoin a violation or a threatened violation of this article, it being determined that vegetation in general and trees in particular are unique and thus a proper subject of equitable relief.

(Code 1982, § 35-10; Ord. No. 811; Ord. No. 1704, 5-14-2001)

## **DIVISION 2. ADMINISTRATION**

### **Sec. 44-56. Tree contractors.**

(a) In addition to any other license or permit which may be required by this Code, any person who shall solicit or otherwise seek to engage in the business of tree maintenance and preservation by pruning or fertilizing or of tree removal, in whole or in part, shall be required to obtain a permit from the city arborist.

(b) The permit shall be applied for in the office of the city arborist on forms prescribed by the city arborist and shall contain information as required by the city arborist as to reasonably protect the consumer and to ensure the qualifications of the person proposing to perform the services.

(c) Every applicant shall file with the arborist a surety bond running to the city in the amount of \$1,000.00 with a corporate surety licensed to do business in the state, conditioned that the applicant shall fully comply with all provisions of this article and other ordinances of the city and statutes of the state, and guaranteeing to any person of the city that all money paid shall be accounted for and applied according to the representations of the contractor and that the contractor shall complete the agreed tasks in a workmanlike manner.

(d) Every applicant shall file evidence of possession of workers compensation and liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$100,000.00 for property damage, indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

(e) Persons within the purview of this article shall pay a permit fee of \$25.00 annually, which permit may be renewed at the end of a calendar year after first being obtained.

(f) Unless, upon an investigation, the character and business responsibility of the applicant is found to be unsatisfactory or incompatible with the purposes of this article, the city arborist shall within ten days issue such permit containing the information by attachment contained in the application provided the security required shall have been furnished. A 72-hour temporary permit may be issued in the sound discretion of the city arborist.

(Code 1982, § 35-7; Ord. No. 811; Ord. No. 1659, 10-25-1999)

### **Sec. 44-57. - Tree commission.**

(a) *Established; composition; term.* A tree commission is hereby established. The commission shall be composed of five commissioners appointed by the city council from among the eligible voters' residents in the city and such ex officio members as may be designated by the council. The commissioners shall serve for terms of three years; however, of those initially appointed, two shall serve for three years, two shall serve for two years, and one shall serve for one year. Upon the expiration of a term of office, the commissioner holding that office may continue to serve until a successor shall be qualified. Any vacancy shall be filled for the unexpired term in the manner in which commissioners are regularly chosen.

(b) *Officers.* The chair and vice-chair of the tree commission shall be elected by the commissioners from among themselves within two months following the annual installation of new fullterm commissioners.

- (c) *Duties.* The tree commission shall perform the following duties:
- (1) The commission shall advise the city manager regarding rules and regulations promulgated under this article and shall assist the arborist in the performance of such arborist's duties.
  - (2) The commission shall recommend to the city council any legislation, plans, policies and programs complementary to the intent and purpose of this article.
- (d) *Requirements.* The tree commission shall:
- (1) Establish its own bylaws and rules of procedure consistent with the state code, city Charter, and this Code;
  - (2) Meet in regular sessions, open to the public, on dates established by the commission and in special sessions, as necessary;
  - (3) Post with the city clerk notices of all meetings and provide agendas which shall be available to the public at least three days prior to meetings, except in cases of emergency;
  - (4) Maintain and file with the city clerk approved minutes of its meetings; and
  - (5) Follow, unless otherwise provided, the general requirements for citizen boards, commissions and committees of the city, as set forth in chapter 2.
- (Code 1982, § 35-8; Ord. No. 811)

#### **Sec. 44-58. Appeals.**

An appeal to the city manager may be taken by any person aggrieved by any decision of the city arborist relative to the administration of this article. An appeal shall be taken within ten working days from the date of the issuance of the arborist's written order, by filing with the city arborist and the city manager a notice of appeal specifying the grounds. The city arborist shall then transmit to the city manager the record upon which the appeal is based. All decisions by the city manager can be appealed to a court of record. The city manager shall solicit the opinion of the tree commission, hear the appeal, and render a decision within 15 working days of receipt of the notice of appeal. An appeal stays all compliance with the action being appealed, unless the city arborist certifies to the city manager that by reason of stated facts a stay would, in such arborist's opinion, cause imminent endangerment to life or property. In such cases, compliance shall not be stayed other than by a restraining order which may be granted by the city manager, or by a court of record, on application and on notice to the city arborist and on due cause shown.

(Code 1982, § 35-19; Ord. No. 1659, 10-25-1999)

### **DIVISION 3. RESTRICTIONS AND REGULATIONS**

#### **Sec. 44-90. Historic or specimen trees.**

- (a) The tree commission may recommend to the city council that certain trees located within the city be officially designated as historic or specimen trees. Prior to such recommendation, the tree commission shall obtain the comments and recommendations of the arborist and shall notify the owner of property on which the tree is located. The tree commission shall present its recommendation to the city council for determination, considering the reports of the arborist and the tree commission. The city council shall hold a public hearing prior to officially designating any historic or specimen trees. The initial action on such a procedure may be taken by a citizen, citizen's group, or organization by submitting a complete report to the tree commission describing the trees in question and their significance in needing protection.
- (b) In the event that the application of this chapter regulating the removal of heritage, specimen, memorial or street trees results in any taking of private property for a public purpose or use, the city shall compensate by fee or other consideration the property owner for such taking, to the extent that such claim is recognized and compensable under state or federal law, and shall notify the owner of such owner's right to seek such fee or compensation.

(Code 1982, § 35-9; Ord. No. 811; Ord. No. 1704, 5-14-2001)  
State Law reference— Tree conservation, Code of Virginia, § 10.1-1127.1.

#### **DIVISION 4. TREE REMOVAL**

##### **Sec. 44-108. Applicability of article.**

The terms and provisions of this article shall apply to real property in the city as follows:

- (1) All undeveloped property and property undergoing redevelopment.
- (2) Yard area of all developed property except residential property zoned R-1A and R-1B; provided that the covered area of historic and specimen trees shall be covered by the terms of this article.
- (3) Covered area of historic or specimen trees.
- (4) Public rights-of-way, parks and public grounds.

(Code 1982, § 35-11; Ord. No. 811)

##### **Sec. 44-109. Permit required.**

(a) A tree removal permit shall be required before any tree on property described in section 44-20 may be destroyed or removed.

(b) When a site plan or other development plan is required, application for a tree removal permit shall consist of a plan acceptable to the arborist in form and content, submitted as part of the site plan or other development plan. The arborist shall determine the plan's compliance with the requirements of the city as promulgated in a public facilities manual. No plan shall be approved which does not comply with these requirements.

(c) When no site plan or other development plan is required, application for a tree removal permit shall be submitted to the arborist in a form which provides the information deemed necessary by the arborist. Where no emergency exists, the arborist shall act upon a tree removal permit application within eight days from receipt of application.

(Code 1982, § 35-12; Ord. No. 811; Ord. No. 1236, 9-13-1988)

Cross reference— Business, professional, occupational licenses, § 40-456 et seq.

##### **Sec. 44-110. Permit review and issuance.**

(a) *Factors to consider.* In addition to reviewing for conformance to standards and guidelines contained in the public facilities manual, the following factors shall also be taken into consideration:

- (1) The extent to which tree clearing is shown to avoid excessive clearing and still permit the applicant to achieve the proposed development or land use.
- (2) The extent to which the actual or intended use of the property is in accordance with the regulations of the zoning district in which the property lies requires clearing of trees.
- (3) The hardship to the applicant which will result from a modification or rejection of the required permit.
- (4) The desirability of preserving any tree by reason of its size, age or some other outstanding quality, such as uniqueness, rarity or status as a landmark or species specimen.
- (5) The extent to which the area would be subject to environmental degradation due to removal of the trees.
- (6) The heightened desirability of preserving tree cover in densely developed or densely populated areas.
- (7) Whether the tree is diseased, injured beyond restoration, in danger of falling, interferes with utility services or creates unsafe visual clearance.

(b) *Replacement of trees.* When warranted in the judgment of the arborist, the applicant may be required to replace, in accordance with a tree replacement plan, any tree being removed with a suitable replacement tree elsewhere on the site. In determining whether the



replacement of trees is reasonable and shall be required, the arborist shall consider the intended use of the property together with an evaluation of the following:

- (1) Existing tree coverage, size and type;
- (2) Number of trees to be removed;
- (3) Area to be covered with structures, parking and driveways;
- (4) Grading plan and drainage requirements; and
- (5) Character of the site and its environs.

(c) *Approval*. If the permit application conforms to standards and guidelines and there are no objections resulting from consideration of the factors listed in subsection (a) of this section, the permit application shall be approved.

(d) *Rejection*. If the permit application does not conform to standards and guidelines or there is an objection resulting from consideration of the factors listed in subsection (a) of this section, the permit application shall be rejected. The arborist may require that the application be modified to bring it into conformance with the standards and guidelines or to eliminate any objections to the application.

(Code 1982, § 35-13; Ord. No. 811)

#### **Sec. 44-111. Area to be cleared.**

The area of land to be cleared of trees and other vegetation in conjunction with proposed development or land use shall not include any trees which are unique by reason of size, age or some other outstanding quality, such as rarity or status as a landmark or species specimen. Subject to the arborist's approval, the area to be cleared shall generally be limited to that area needed for:

- (1) Street construction and necessary slope construction.
- (2) Public service or utility easements and rights-of-way. This shall include area for utility line installation with any construction easements necessary for such installation and easements for maintenance access. These easements shall not be cleared prior to actual line installation.
- (3) Building roof coverage area and ancillary structures such as patios and porches plus 15 feet on all sides for construction activity.
- (4) Driveways, alleyways, walkways, parking lots and other land area necessary to the installation of the proposed development or use.
- (5) Sediment basins. Only those trees within the area necessary for construction of the dam, the area in which sediment will collect, and the area necessary for construction and maintenance of the basin shall be cleared of trees.

(Code 1982, § 35-14; Ord. No. 811)

### **DIVISION 5. TREE PRESERVATION AND MAINTENANCE AGREEMENT AND BOND**

#### **Sec. 44-136. Purpose and amount of bond.**

Prior to approval of the plan required by this article and prior to the issuance of building and development permits, there shall be executed by the owner or the owner's agent, and submitted with the plans, an agreement to establish the measures provided for on the plans for the protection of existing trees, together with a cash bond, to be deposited in an interest bearing escrow account upon which the city may draw, in accordance with the agreement, in an amount equal to the total replacement cost of the protected trees plus the cost of the measures required by the agreement for the protection of the trees. Deposit of such funds shall be in a qualified security or insured savings account and any interest earned shall be credited to the owner or agent. The agreement and bond shall be provided for the installation, maintenance and performance of these protective measures and to ensure the repair and replacement, if necessary, of the protected existing trees.

(Code 1982, § 35-15(a); Ord. No. 811; Ord. No. 953; Ord. No. 1042, 3-28-1983; Ord. No. 1236, 9-13-1988; Ord. No. 1659, 10-25-1999)

**Sec. 44-137. Replacement cost of protected trees.**

The replacement cost of the protected trees shall be fixed at the time the agreement is executed and shall be based upon the most recent Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers. In fixing the replacement cost of any existing tree, the city shall use the cost of a specimen tree of similar kind which is available from a nursery in the region and which is closest in trunk diameter to the existing tree. The replacement cost shall include the nursery's cost to install and guarantee the replacement tree for one year. The cost of the measures required for the protection of the trees shall also be fixed as of the time the agreement is executed and shall be based upon the standards for protective measures as set out in the most recent Virginia Erosion and Sediment Control Handbook (handbook), prepared by the Virginia Soil and Water Conservation Commission, chapter 3, STD and SPEC 3.38. Protective measures may include those items set out in the handbook, as well as fertilization, disease and insect treatments and pruning.

(Code 1982, § 35-15(a)(1); Ord. No. 811; Ord. No. 953; Ord. No. 1042, 3-28-1983; Ord. No. 1236, 9-13-1988; Ord. No. 1659, 10-25-1999)

**Sec. 44-138. Other forms of security allowed.**

In the event the amount of the bond is fixed in excess of \$2,000.00, a surety bond, letter of credit, certified check or other similar forms may be provided in lieu of a cash bond for the amount in excess of \$2,000.00, if the particular form is approved by the city attorney.

(Code 1982, § 35-15(a)(2); Ord. No. 811; Ord. No. 953; Ord. No. 1042, 3-28-1983; Ord. No. 1236, 9-13-1988; Ord. No. 1659, 10-25-1999)

**Sec. 44-139. Procedure for administration of bond and terms of bond.**

(a) The agreement and the plan shall describe the kind of measures to be taken and the materials to be used to protect the trees from the stress of construction. The owner or the agent of the owner shall notify the city arborist in writing at least three days prior to the installation of the protective measures. The arborist shall then inspect the measures after they are installed to ensure they meet the requirements set out in the agreement. The arborist shall notify the owner or the owner's agent in writing when the inspection is complete as to whether or not compliance has been achieved. No construction activities, which include, but are not limited to, the placement of heavy equipment on the site, excavations, earth movement, or erection of any structures, shall be done by the owner or the agent of the owner until the arborist has determined that the measures have been installed according to the agreement. These measures shall remain in place and shall not be modified until all construction on the real estate covered by the agreement is completed. The arborist shall inspect the area for compliance from time to time. The agreement may be amended only by a written instrument and only upon the consent of the arborist.

(b) The owner or the agent of the owner shall notify the arborist in writing when all construction on the real estate covered by the agreement is completed. The arborist shall then inspect the area and, upon determining that all construction in that area is completed, the arborist shall notify the owner or the owner's agent in writing that the protective measures may be removed. No additional construction shall take place on the real estate subject to the agreement after the protective measures have been removed unless the written approval of the arborist is obtained. Approval shall be given upon a determination that the construction will not damage the protected trees. The arborist shall also inspect the trees at this time to determine what damage, if any, has been caused by the stress of construction, as that term is defined in the handbook in the subsection entitled Stresses of Construction. The arborist shall also notify the owner or the owner's agent in writing if any trees must be repaired or replaced because of damage caused by the stress of the construction or shall refund half of the bond if no repairs or replacements are needed. Upon notification by the arborist that repairs or replacements are to be made, the owner or the

agent of the owner shall make the required repairs and replacements and shall notify the arborist when the repairs and replacements are complete. The arborist shall inspect the repairs and replacement and shall notify the owner when it is determined that the required repairs and replacements have been adequately performed. One-half of the bond shall then be refunded.

(c) The remaining one-half of the bond shall be held for a period of two years from the date of the arborist's notification to the owner that the required repairs or replacement have been completed. The purpose of retaining this portion of the bond is to ensure trees which are damaged by construction, but where the injury becomes apparent only after construction is completed, will be repaired or replaced. At the end of this two-year period, the owner or the owner's agent may apply to the city arborist in writing for a discharge of the unexpended or unobligated portion of such bond. If the protected trees have survived in good health based upon the guidelines set out in the handbook in the section entitled Tree Preservation and Protection, the arborist shall release the bond within 30 days of receipt of the application. The bond shall not be discharged until all required repairs and replacements have been made.

(Code 1982, § 35-15(b)—(d); Ord. No. 811; Ord. No. 953; Ord. No. 1042, 3-28-1983; Ord. No. 1236, 9-13-1988; Ord. No. 1659, 10-25-1999)

#### **Sec. 44-140. Refusal to comply.**

If the owner or the owner's agent refuses to comply with the requirements of the arborist as made pursuant to section 44-139(a), the city may, at its option, have the work performed by others or by its own forces. In either case, all costs incurred by the city shall be reimbursed from the bond or other funds being held. In the event the owner or such owner's agent has during the two-year period, sold all or a portion of the real estate subject to the agreement, the original owner or the agent of such owner shall continue to be responsible for all measures required by the agreement and for all trees in open space including those located in common areas and on individual fee-simple lots. The original owner or his agent or the purchaser as the case may be shall take the measures, and repair or replace trees as required by the arborist. If the new owner of a single-family residential property refuses to permit the original owner or the arborist to make the required protective measures, inspections, repairs, or replacements, the original owner shall be considered as having complied with this section.

(Code 1982, § 35-15(e); Ord. No. 811; Ord. No. 953; Ord. No. 1042, 3-28-1983; Ord. No. 1236, 9-13-1988; Ord. No. 1659, 10-25-1999)

#### **Sec. 44-141. Failure to comply with plan.**

If the city arborist determines that the permit holder has failed to comply with the plan, the city arborist shall immediately serve upon the permit holder a notice to comply which shall be sent by registered or certified mail to the address specified by the permit holder in his permit application. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permit holder fails to comply within the time specified, such permit holder may be subject to revocation of the permit and the cash bond may be used by the city at the direction of the city arborist to correct the noted deficiencies; furthermore, such permit holder could be deemed to be in violation of this division and upon conviction could be subject to the penalties provided by this article.

(Code 1982, § 35-16; Ord. No. 811)

#### **Sec. 44-142. Exceptions; waiver.**

(a) In the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate

removal without delay, verbal authorization may be given by the arborist and the tree removed without obtaining a permit as herein required.

(b) During the period of an emergency, such as a tornado, ice storm, flood or any other act of nature, the requirements of this division may be waived by the city manager or the city manager's designee.

(Code 1982, § 35-17; Ord. No. 811)

#### **Sec. 44-143. Replacement of destroyed trees destroyed.**

When trees are destroyed in violation of this division, replacement trees shall be required, unless exemption is granted by the arborist. The size, species and quantity of these replacements shall be determined by the arborist based on the value of the trees removed as calculated by the latest formula published by the International Society of Arboriculture.

(Code 1982, § 35-18; Ord. No. 811)

## **Chapter 48 ZONING**

### **ARTICLE I. IN GENERAL**

#### **Sec. 48-2. Definitions.**

(a) Not construed as regulatory. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter. These definitions are included to provide the intended meaning of certain words and are not to be construed as regulatory.

(b) Tense, plurality, etc. All words in the present tense include the future tense. All words in the plural number include the singular, and vice versa. The word "lot" includes the word "plot;" the word "building" includes the words "use" and "structure;" and the word "shall" is mandatory and not discretionary.

(c) Words, terms, and phrases. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Development* means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading streets and paving, excavation or drilling operations, or storage of equipment or materials.

*Easement* means a grant by a property owner of the use of the land of the property owner by another party for a specific purpose.

Impervious land cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to:

- (1) Nonvegetated roofs;
- (2) Buildings;
- (3) Streets;
- (4) Parking areas;
- (5) Sidewalks;
- (6) Driveways;
- (7) Any concrete, asphalt, or compacted gravel surface.
- (8) Exception: Structures smaller than 200 square feet that do not require a building permit shall not count toward lot coverage or impervious lot coverage. For purposes of calculating impervious land cover, driveways, walks and patios using pervious materials may be reduced by up to 25 percent. Materials eligible for a

reduction in area include, but are not limited to, pervious pavers, "grasscrete", "grassblock" or other similar material.

*Landscaped area* means an area planted in grass, trees, shrubs or other natural greenery, or containing any form of landscaping or architectural treatment designed by a registered landscape architect.

*Landscaped open space* means a pervious surface landscaped with a combination of trees and shrubs.

*Right-of-way lines* means lines which separate private property from existing or dedicated public property containing or proposed to contain publicly owned street surfaces, gutter, curb, planted strips or sidewalks. Where a public street is designated on the major thoroughfare plan, all requirements of this chapter which relate to rights-of-way shall be measured from the indicated proposed right-of-way lines. (See illustration 4 at the end of this section.)

*Tree* means any self-supporting woody plant growing upon the earth which usually provides one main trunk and produces a more or less distinct and elevated head with many branches. Trees shall measure no less than two inches in diameter at six inches above ground level.

*Yard* means an open space on the same lot with a building, a group of buildings, or a use, which space is unoccupied and unobstructed from the ground upward, except as herein provided. (See illustration 2 at the end of this section.)

*Yard, front,* means a yard extending from side lot line to side lot line, between the front lot line and the front building setback line. (See illustration 2 at the end of this section.)

*Yard, rear,* means a yard extending across the full width of the lot from side lot line to side lot line, between the rear lot line and the rear building setback line. (See illustration 2 at the end of this section.)

*Yard, side,* means a yard extending from the front yard to the rear yard between the side lot line and the nearest side building setback line. For double frontage and corner lots that have no rear yards, the side yard shall be understood to extend from one front yard to the other front yard. (See illustration 2 at the end of this section.)

(Code 1973, § 81-2; Code 1982, § 38-2; Ord. No. 609; Ord. No. 666; Ord. No. 724; Ord. No. 804; Ord. No. 866; Ord. No. 894; Ord. No. 908; Ord. No. 962, 3-23-1981; Ord. No. 987, 11-9-1981; Ord. No. 993, 1-11-1982; Ord. No. 999, 2-22-1982; Ord. No. 1015, 7-12-1982; Ord. No. 1039, 2-28-1983; Ord. No. 1131, 3-10-1986; Ord. No. 1138, 5-12-1986; Ord. No. 1139, 5-27-1986; Ord. No. 1154, 8-11-1986; Ord. No. 1203, 10-13-1987; Ord. No. 1250, 2-27-1989; Ord. No. 1263, 5-22-1989; Ord. No. 1277, § 1, 10-10-1989; Ord. No. 1278, 10-10-1989; Ord. No. 1338, 12-10-1990; Ord. No. 1382, 11-25-1991; Ord. No. 1477, 5-9-1994; Ord. No. 1531, 12-11-1995; Ord. No. 1541, 3-25-1996; Ord. No. 1583, 7-14-1997; Ord. No. 1627, 9-28-1998; Ord. No. 1636, 3-8-1999; Ord. No. 1710, 10-22-2001; Ord. No. 1721, 6-10-2002; Ord. No. 1734, 5-12-2003; Ord. No. 1792, § 38-2, 8-14-2006; Ord. No. 1846, 6-28-2010; Ord. No. 1915, 3-24-2014)

Cross reference— Definitions and rules of construction, § 1-2.

### **ARTICLE III. DISTRICTS**

#### **DIVISION 4. R-C, CLUSTER RESIDENCE DISTRICT**

**Sec. 48-294. Intent.**

The R-C, cluster residence district shall be comprised generally of and designated for residence-cluster use on the adopted master plan. This district is created for the purposes of stabilizing and improving the residential character of the city and meeting the residential needs of the population. The cluster residence district is intended to provide for creativity in residential design in a manner that will be compatible with adjacent uses such as detached housing, apartments or commercial developments. The cluster residence district may serve as a transition between commercial and low density residential areas as well as serve as a housing alternative in its own right. Cluster residence developments shall be designed to maximize use of existing trees and to provide convenient parking and common open space for the use of the residents.

(Code 1973, § 81-35; Code 1982, § 38-18(a); Ord. No. 586; Ord. No. 610; Ord. No. 866; Ord. No. 987, 11-9-1981; Ord. No. 1142, 6-23-1986; Ord. No. 1277, § 2, 10-10-1989; Ord. No. 1766, 9-13-2004)

**Sec. 48-298. Conditions applying to permitted uses.**

...

(k) A landscaped strip of at least ten feet in width shall be provided along the side and rear boundaries of the development in accordance with the requirements of article V, division 8. Trees, shrubs, ground cover, a hedge and/or a wall may be required by the planning commission with the advice of the architectural advisory board and the city arborist. The objectives of the landscaping requirement in the R-C district shall be to provide an aesthetically pleasing visual transition from one residential property to another, buffering of lower density districts, buffering and screening of commercial uses, preservation of trees and addition of appropriate shade trees along the street right-of-way. A fenced or walled privacy yard shall not extend into a required landscaped strip.

...

(Code 1973, § 81-35; Code 1982, § 38-18(e); Ord. No. 586; Ord. No. 610; Ord. No. 866; Ord. No. 987, 11-9-1981; Ord. No. 1142, 6-23-1986; Ord. No. 1277, § 2, 10-10-1989; Ord. No. 1766, 9-13-2004)

**DIVISION 5. R-TH, TOWNHOUSE RESIDENCE DISTRICT****Sec. 48-331. Principal uses permitted by right.**

Townhouse dwellings in the R-TH, townhouse residence district shall be subject to the following criteria:

...

(9) A common green area may be provided in lieu of a part of the minimum lot area, subject to the following provisions:

...

c. A common green area may be utilized only for lawns, trees, planting areas, ornamental pools, similar landscaping uses and swimming pools. No part of the common green area may be utilized for automobile driveways or parking areas, for sidewalks, for paved play areas, for other similar paved areas, or for buildings of any type.

d. Adequate measures, as certified in form and content by the city attorney, must be provided, through deed restrictions or other legally binding arrangements, that ownership of the common green area shall be vested in an association of all of the owners of the townhouses; that it shall remain as a common green area in perpetuity, with suitable restrictions upon its use; and that the necessary funds shall continue to be provided by the owners in perpetuity to cover suitable maintenance of the lawns, trees, shrubs, pools, etc.

...  
...  
(Code 1982, § 38-19(b); Ord. No. 1166, 11-24-1986; Ord. No. 1277, § 3, 10-10-1989)

## **ARTICLE V. SUPPLEMENTARY REGULATIONS**

### **DIVISION 5. MIXED-USE REDEVELOPMENT (MUR) REGULATIONS**

#### **Sec. 48-1080. - General requirements.**

...  
(h) *Landscaping and open space requirements.* Section 48-940 does not apply to MUR applications. The remainder of division 2 of this article is applicable.

(1) All MUR site plan applications must contain a landscaping plan. A minimum of 15 percent of the gross site area must be landscaped open space. The term "landscaped open space" is defined in section 48-2. This 15 percent may include up to five feet of landscaped perimeter setback areas. A five-foot landscaped open space area, as defined in section 48-2, must be included on all MUR application area perimeter streets as part of the 14- to 20-foot required perimeter setback. MUR application area perimeters that are not bounded by street frontage and abut properties outside of the MUR application area must comply with the site screening requirements of this section. Five percent of the interior of all surface parking facilities must be landscaped. The internal area of a parking facility is defined by the perimeter of the curbs or edge of paving. This five percent of interior surface parking areas may also be included within the 15 percent gross site area requirement. Structured parking facilities must include a minimum of two percent of landscaped area on the top decks, with the remaining three percent to be planted adjacent to the ground level of the parking structure. Rear townhouse yards cannot be applied to the 15 percent landscaped open space requirement. The following standards also apply to the 15 percent gross site area landscaped open space requirements:

- a. The five percent landscaping requirement for the interior of surface parking areas must be in the form of islands which must include a mixture of shade trees, shrubs, groundcover, and perennials to maximize shade potential and visual buffers. Each island must contain a minimum of one canopy tree and 150 square feet.
- b. Best management practices shall be employed in establishing stormwater management techniques, as described in the Falls Church Watershed Management Plan, section 4.0.
- c. The two percent landscaping requirement for the top decks of structured parking facilities should include three-foot perimeter planters at certain locations and corner planters with shade trees. The majority of the remaining three percent of landscaping adjacent to the ground level of the structure should be comprised of evergreen screening with the capacity to grow to a minimum of eight feet in height.
- d. Landscaping within the required perimeter setback area shall include street-type shade trees, measuring from two to 2½ inches in caliper, planted at intervals of 30 to 40 feet. In addition, a combination of large shrubs, small shrubs, and groundcover (not to include turf grass) arranged formally or informally, that will cover the entire area at maturity, shall be required. Groundcover shall not comprise more than 15 percent of the site screen area. Large shrubs shall measure at least 30 inches in height at the time of planting and reach a minimum mature height of 3½ feet. Small shrubs shall measure at least 18 inches in height at the time of planting and reach a maximum of 3½ feet at maturity. Enough large shrubs must be planted to maintain a visual buffer the length of the setback area, if a MUR area perimeter is

adjacent to an adjoining property and is not separated by a street, subsection (h)(2) of this section will govern the requirements for that section of the perimeter.

e. All plant materials must be inspected by the city arborist prior to planting and shall meet the city's approved plant list and commercial site planting requirements. Installation may be spot checked by the city arborist.

f. Landscaped open space shall be consolidated into useable areas when possible.

(2) Site screening is required between adjoining uses and development not separated by a street at a MUR application area perimeter. All MUR site plan applications must adhere to the following site screening requirements to provide a visual buffer between adjoining uses. These requirements apply only to perimeter boundaries of any MUR application and not to district separations that are interior to a MUR application area. Site screening requirements vary depending on the intensity of both the district in which a use is proposed and its neighboring district.

a. Site screening requirement A. A ten-foot wide landscaped planting strip shall include street-type shade trees, measuring from two to 2½ inches in caliper, planted at intervals of 30 to 40 feet. In addition, a combination of large shrubs, small shrubs, and groundcover (not to include turf grass), arranged formally or informally, that will cover the entire area at maturity shall be required. Groundcover shall not comprise more than 15 percent of the site screen area. Large shrubs shall measure at least 30 inches in height at the time of planting and reach a minimum mature height of 3½ feet. Small shrubs shall measure at least 18 inches in height at the time of planting and reach a maximum of 3½ feet at maturity. Enough large shrubs must be planted to maintain a visual buffer the length of the site screen area. All species must be approved by the city arborist.

b. Site screening requirement B. A ten-foot wide landscaped planting strip shall include street-type shade trees, measuring from two to 2½ inches in caliper, planted at intervals of 30 to 40 feet. In addition, a combination of large shrubs, small shrubs, and groundcover (not to include turf grass), arranged formally or informally, that will cover the entire area at maturity shall be required. Groundcover shall not comprise more than 15 percent of the site screen area. Large shrubs shall measure at least 30 inches in height at the time of planting and reach a minimum mature height of 3½ feet. Small shrubs shall measure at least 18 inches in height at the time of planting and reach a maximum of 3½ feet at maturity. Enough large shrubs must be planted to maintain a visual buffer the length of the site screen area. In addition to this vegetation, a screening element of at least six feet in height must be created to consist of either a masonry wall, a combined three foot high earthen berm with the required landscaping located atop the berm, or a solid wood fence. All species must be approved by the city arborist.

c. Site screening requirement C.

1. A seven-foot-wide landscaped planting strip shall include evergreen trees planted at intervals of six to ten feet, measuring a minimum of six feet in height at the time of planting and reaching a minimum height of 12 feet at maturity. In addition to this vegetation, a screening element of at least six feet in height must be created to consist of either a masonry wall or a solid wood fence. All species must be approved by the city arborist.

2. Requirements A, B, and C are standards for the size and site screening area and the density and type of landscaping/planting. The developer may substitute a higher site screening requirement,



requirement C being higher than B, and B being higher than A. In certain situations, as designated in the table in this subsection, either site screening requirement B or C may be used. Existing trees and other vegetation may be used for site screening, if they are healthy and are approved as part of the landscaping plan by the city arborist. All site screening required by this section must be installed prior to the occupancy of the use. Where compliance with this regulation is not possible because of seasonal planting limitations, the city arborist shall grant an appropriate delay.

...

The preexisting commercial structures within a MUR application area shall not be basis for receiving residential building permits prior to the footer inspections for all commercial structures shown on the approved site plan.

(Code 1982, § 38-34(a)(2); Ord. No. 1636, 3-8-1999; Ord. No. 1670, 3-13-2000; Ord. No. 1671, 4-10-2000)

## **DIVISION 6. HEIGHT, LOT AND YARD REGULATIONS**

### **Sec. 48-1102. - Additional requirements, exceptions and modifications.**

...

(h) The following criteria shall apply to any fence, wall or topographic feature, provided that in all cases no such fence, wall or feature shall conflict with the visibility requirements found in section 48-1103 and shall not be located in a public right-of-way:

...

(5) The limitations of this section shall not be deemed to prohibit any necessary retaining wall or natural topographic feature. Ornamental features such as post caps or finials shall not count towards fence height. Fences enclosing a pool shall be subject to the requirements of the state building code. For purposes of this section, trees, shrubs and other plantings shall not constitute a fence or wall.

...

(Code 1973, § 81-54; Code 1982, § 38-28(b); Ord. No. 586; Ord. No. 866; Ord. No. 880; Ord. No. 898; Ord. No. 908; Ord. No. 924; Ord. No. 987, 11-9-1981; Ord. No. 999, 2-22-1982; Ord. No. 1081, 9-10-1984; Ord. No. 1167, 11-24-1986; Ord. No. 1209, 1-25-1988; Ord. No. 1244, 12-12-1988; Ord. No. 1277, § 4, 10-10-1989; Ord. No. 1382, 11-25-1991; Ord. No. 1429, 2-8-1993; Ord. No. 1578, 5-12-1997; Ord. No. 1636, 3-8-1999; Ord. No. 1695, 3-26-2001; Ord. No. 1766, 9-13-2004; Ord. No. 1799, 12-12-2006; Ord. No. 1872, 3-12-2012; Ord. No. 1902, 7-22-2013)

## **DIVISION 7. SITE PLANS**

### **Sec. 48-1135. Preliminary survey documents.**

As the first step in the site plan process, the applicant shall provide an accurate survey of existing features on and around the site, including at least the following:

(1) A site drawing to scale locating all existing trees on the site that measure at least two inches in diameter at 4½ feet above grade, which shall identify each tree by size (diameter at 4½ feet above grade), species, and condition as determined by a licensed and/or certified arborist, or a similar professional approval by the city manager.

...

(Code 1973, § 81-56; Code 1982, § 38-29(b); Ord. No. 595; Ord. No. 640; Ord. No. 704; Ord. No. 881; Ord. No. 1042, 3-28-1983; Ord. No. 1058, 8-8-1983; Ord. No. 1072, 5-29-1984; Ord. No. 1118, 9-9-1985; Ord. No. 1237, 9-12-1988; Ord. No. 1263, 5-22-1989; Ord. No. 1277, § 5, 10-10-1989; Ord. No. 1332, 11-12-1990; Ord. No. 1335, 11-12-1990; Ord. No. 1636, 3-8-1999)

**Sec. 48-1140. - Other requirements.**

To further the purposes of this chapter and to ensure public safety and general welfare, the planning commission, departments, divisions and agencies charged with the responsibility for the review and approval of site plans may require the following in addition to improvements required elsewhere in this chapter:

...

(6) Preservation of as many live trees as practical.

(7) Provision for appropriate shade trees along street right-of-way and sidewalks and in pedestrian and parking areas.

(Code 1973, § 81-56; Code 1982, § 38-29(g); Ord. No. 595; Ord. No. 640; Ord. No. 704; Ord. No. 881; Ord. No. 1042, 3-28-1983; Ord. No. 1058, 8-8-1983; Ord. No. 1072, 5-29-1984; Ord. No. 1118, 9-9-1985; Ord. No. 1237, 9-12-1988; Ord. No. 1263, 5-22-1989; Ord. No. 1277, § 5, 10-10-1989; Ord. No. 1332, 11-12-1990; Ord. No. 1335, 11-12-1990; Ord. No. 1636, 3-8-1999)

**Sec. 48-1143. Bonds.**

...

(b) Bond for landscape elements. There shall be a bond to ensure the planting and maintenance of all plants and trees shown on the plan for landscaping. Prior to the issuance of building or development permits, the owner or agent shall deposit a cash bond in an interest-bearing escrow account upon which the city may draw under the conditions set out in this section in an amount equal to the total replacement cost of all newly installed plants and trees. Deposit of such funds shall be in a qualified security or insured savings account and any interest earned shall be credited to the owner or his agent.

(1) Time, amount of bond fixed and standard for fixing amount. The replacement cost of the plants and trees shall be fixed as of the time the approved plan for landscaping is released by the city staff and shall be based upon the most current Guide for Establishing Values of Trees and Other Plants, prepared by the Council of Tree and Landscape Appraisers.

(2) Other forms of security allowed. In the event the amount of the bond is fixed in excess of \$2,000.00, a surety bond, letter of credit, certified check or other similar form may be provided in lieu of cash bond for the amount in excess of \$2,000.00, if the particular form is approved by the city attorney.

(3) Procedure for administration and term of bond. The owner or agent shall notify the city arborist three days prior to the installation of the plants and trees shown on the plan for landscape. The arborist shall inspect the plant and tree material and the method of installation. The arborist shall have the authority to require that healthy stock be planted and that the installation be done in a manner permitted by the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen. The arborist shall certify in writing when the installation of all new plants and trees shown on the plan for landscaping has been completed in an acceptable manner, based on the standards in this section. The bond for the site may be apportioned if the property is being developed in phases or discrete parts. The term of the bond shall be one year from the date on which the arborist certified that installation was complete. The arborist shall inspect the site during the one year period and, if the plants or trees are not in good health, the arborist may require corrective measures or replacement, if the plant or tree cannot be saved. At the end of the one-year period, the owner may apply to the arborist for a discharge of the unobligated or unexpended portion of the bond. Prior to such discharge the arborist shall make a final inspection and shall require the replacement of any plants or trees not in good health based upon the standards set out in the American Standard for Nursery Stock. The unobligated or unexpended portion of the bond shall be discharged upon the arborist's certification that the replacement has been made.

(4) Responsibilities of the owner. If the owner or his agent refuses to comply with the requirements of the arborist, the city may at its option, have the work performed by others or by its own forces. In either case all costs incurred by the city shall be reimbursed from the bond or other funds being held. In the event the owner or his agent has sold all or a portion of the real estate subject to the approved site plan, the original owner or agent shall continue to be responsible for plants and trees located in common areas and on individual fee-simple lots. If the new owner of a single-family residential property refuses to permit the original owner or the arborist to make the required inspection, repairs or replacements, the original owner shall be considered as having complied with this section.

In addition to the requirements in this subsection (b) of this section, a tree preservation and maintenance agreement and bond shall also be required if the site plan shows any existing trees which are to be protected, in accordance with section chapter 44, article II, division 5, prior to the issuance of building or development permits.

(Code 1973, § 81-56; Code 1982, § 38-29(j); Ord. No. 595; Ord. No. 640; Ord. No. 704; Ord. No. 881; Ord. No. 1042, 3-28-1983; Ord. No. 1058, 8-8-1983; Ord. No. 1072, 5-29-1984; Ord. No. 1118, 9-9-1985; Ord. No. 1237, 9-12-1988; Ord. No. 1263, 5-22-1989; Ord. No. 1277, § 5, 10-10-1989; Ord. No. 1332, 11-12-1990; Ord. No. 1335, 11-12-1990; Ord. No. 1636, 3-8-1999)

#### **Sec. 48-1147. Owner's associations.**

In the instance where development involves condominiums and cooperatives or other similar forms of ownership, either through conversion of an existing structure or through new construction, provision shall be made for the preservation and continuity of all common areas as follows:

(1) Adequate measures as certified in form and content by the city attorney must be provided, through deed restrictions or other legally binding arrangements; that ownership of the common area shall be vested in an association of all of the owners; that it shall remain as common areas in perpetuity, with suitable restrictions upon its use; and that the necessary funds shall continue to be provided by the owners in perpetuity to cover suitable maintenance of the lawns, trees, shrubs, pools, parking area, roads and lighting and for the collection of garbage and other trash.

...

(Code 1973, § 81-56; Code 1982, § 38-29(n); Ord. No. 595; Ord. No. 640; Ord. No. 704; Ord. No. 881; Ord. No. 1042, 3-28-1983; Ord. No. 1058, 8-8-1983; Ord. No. 1072, 5-29-1984; Ord. No. 1118, 9-9-1985; Ord. No. 1237, 9-12-1988; Ord. No. 1263, 5-22-1989; Ord. No. 1277, § 5, 10-10-1989; Ord. No. 1332, 11-12-1990; Ord. No. 1335, 11-12-1990; Ord. No. 1636, 3-8-1999)

### **DIVISION 8. LANDSCAPING**

#### **Sec. 48-1179. Intent and objectives.**

The intent of this division is to preserve existing healthy vegetation and create new landscaping areas in areas that are being developed or redeveloped in commercial and residential areas. Natural vegetation and landscape plantings are an important community asset as they provide environmental benefits, enhance community character, and add to property values. Definitions within this section shall be consistent with article IV, division 16 of this chapter, pertaining to the Chesapeake Bay preservation area. The objectives set forth in this division include the following:

- (1) Preserve and enhance the longevity of vegetation in residential and commercial areas throughout the city;
- (2) Reduce soil erosion and stormwater runoff and protect water quality by minimizing removal of existing vegetation;

- (3) Enhance the appearance and preserve the character of the surrounding properties and public rights-of-way;
- (4) Improve the environment for pedestrians along streets and within parking lots and other pedestrian areas;
- (5) Conserve energy and moderate solar radiation through the use of shade tree plantings in parking lots and streets;
- (6) Visually integrate developments into the existing landscape and minimize potential conflicts between abutting developments, and ensure that a natural vegetative area of appropriate size and density is located between zoning districts; and
- (7) Improve the quality of vegetation selection through the implementation of landscape standards and specifications.

(Code 1982, § 38-30(a); Ord. No. 1766, 9-13-2004)

**Sec. 48-1180. Tree canopy coverage required for single-family residential development.**

- (a) It is the intent of this section to regulate existing and replacement trees and/or shrubs to provide tree canopy coverage on developing and/or redeveloping residential lots zoned R1-A, low density residential and R1-B, medium density residential.
- (b) Trees designated by the city as historic, specimen, street, park, memorial and other public trees shall be regulated pursuant to chapter 44, article II, pertaining to trees and shrubs.
- (c) All developments, redevelopments, and/or land disturbing activities that are located in R1-A and R1-B zones that will disturb greater than or equal to 2,500 square feet of land shall provide for the preservation and/or planting of trees on the lot to the extent that, at a maturity of ten years, the minimum lot coverage of the tree canopy shall be 20 percent.
- (d) Tree canopy coverage includes all areas within a lot's property lines beneath the dripline of vegetation. Calculation of the tree canopy coverage shall be the sum total of the existing vegetation and replacement vegetation.
  - (1) Preserved tree canopy coverage vegetation shall include the dripline beneath trees that measure no less than two inches in diameter at breast height (DBH) six inches above ground level and shrubs that measure no less than five feet in height.
  - (2) Replacement tree canopy coverage shall be as calculated by the most recent standards for tree canopy coverage by the Virginia Nursery and Landscape Association. Vegetation that is not included in this list may be substituted for vegetation of similar growth rate, type and form.
- (e) Existing vegetation that shall be credited towards the required tree canopy coverage includes:
  - (1) Existing or relocated trees and/or shrubs that have been preserved in accordance with a landscape conservation plan, pursuant to article IV, division 16 of this chapter, pertaining to Chesapeake Bay preservation area overlay district.
  - (2) Canopy coverage from existing trees and/or shrubs shall be multiplied by 1.25 to determine the total tree canopy from preserved trees and shrubs. This is to encourage the preservation of existing vegetation and to recognize the additional environmental benefits that mature trees provide.
- (f) Existing vegetation that shall not be credited towards the required tree canopy coverage include:
  - (1) Trees with a rating of fair to poor and with a life expectancy less than ten years, as calculated by the city arborist using the most recent edition of the Guide for Plant Appraisal, published by the International Society of Arboriculture.
  - (2) Undesirable and/or invasive vegetation, as published by the Virginia Department of Conservation and Recreation (DCR) and the Virginia Native Plant Society (VNPS).

(g) Replacement vegetation is required on lots that do not meet the minimum tree canopy coverage requirements either through the preservation of existing vegetation or due to the absence of tree canopy coverage present at the time of development or redevelopment.

(1) Replacement vegetation should be chosen from the Recommended List of Trees and Shrubs to Plant in the City of Falls Church.

(2) Substitute vegetation may be considered, provided it does not negatively impact native plant communities, cause damage to nearby structures and infrastructure, or possess inherent physiological traits that cause such trees to structurally fail.

(3) Size, planting and installation specifications of the required replacement vegetation shall be pursuant to this section.

(h) In addition to the quantity of the replacement vegetation, its quality shall be encouraged through providing tree canopy coverage credit. Credit shall be given for the following types of vegetation that are selected and planted on the lot so that it improves the overall health and condition of the urban tree canopy and provides for additional environmental benefits.

(1) A best management practice (BMP) credit of 25 percent of the tree canopy of the individual tree shall be given for those trees that are used in rain gardens, bio-retention areas or other vegetative best management practices.

(2) An energy conservation credit of 25 percent of the tree canopy of the individual tree shall be given for those types of trees that are an approved species for energy conservation. Trees shall be located 20 to 35 feet from the edge of a building and shade its western, southwestern or northern exposure from 2:30 p.m. to 7:30 p.m. from May through September.

(3) A species diversity credit of an additional ten percent shall be given for the use of not more than 20 percent of the trees to be of the same species.

(4) A utility line compatibility credit of the average of the listed shade trees shall be given for trees that are an approved species that do not conflict with overhead utility lines. This credit applies when site constraints do not allow for the planting of shade trees elsewhere on the lot.

(i) Installation and bonding requirements of replacement vegetation shall be regulated pursuant to article V, division 7 of this chapter, pertaining to site plans.

(j) Where areas to be preserved (as designated on an approved landscape conservation plan) are encroached upon, the city arborist may require the replacement of any vegetation damaged or destroyed. The size, species and quantity of these replacements shall be determined by the city arborist based on the value of the vegetation removed as calculated by the latest formula published by the International Society of Arboriculture.

(k) Modifications to the tree canopy coverage requirement in this section may be permitted when in the professional opinion of the city arborist, a lot's unique physical constraints will not allow for the planting of the replacement vegetation. Only in these cases, the city arborist may allow a cash contribution to the tree canopy coverage fund or off-site mitigation fund whereby a portion of a lot's tree canopy coverage requirements may be met from off-site mitigation planting or replanting at locations at the direction of the city arborist.

(l) The tree canopy coverage fund or off-site mitigation fund shall be established for the deposit of cash contributions and mitigation fees, when necessary, and administered by the city arborist. This fund shall be utilized to plant trees on public and/or private properties within the city boundaries.

(1) Cash contribution shall be based upon the replacement cost of the vegetation. The replacement cost shall be the sum total of all costs to purchase, transport, plant and guarantee the tree for one year from the date of planting.

(2) Requests for tree plantings on private property shall be prioritized based on the lot's location in the sub watershed, existing tree canopy coverage and other site

conditions that would improve the urban tree canopy. The commitment of the homeowner to provide longterm care for the planting shall be required.

(3) Tree plantings shall be contracted out yearly and documentation provided to the tree commission and/or other interested parties as to the fund's administration, and the locations and types of trees planted.

(Code 1982, § 38-30(b); Ord. No. 1766, 9-13-2004)

**Sec. 48-1181. Commercial, multifamily and mixed-use development perimeter parking lot landscaping.**

The perimeter around off-street parking lots, newly constructed and/or existing, shall be landscaped in accordance with this section whenever a site plan is required for the property upon which it is located. The area shall be landscaped with a combination of trees, shrubs, fences, and walls and/or berms of sufficient height and density. The purpose of the landscaping is to screen the parking or other vehicular use area from public streets and/or abutting properties; to provide street and/or shade trees; and to provide an attractive appearance in keeping with the city's character.

- (1) Perimeter parking lot landscaping adjacent to public streets.
  - a. Perimeter parking lot landscaping shall be provided between an off-street parking area or other vehicular use area and any adjacent public street. If the area is screened by an intervening structure such as a building, screening is not required.
  - b. A solid landscaped planting strip that is at least 3½ feet in height and ten feet in width shall be provided. This strip shall contain a minimum of 25 small shrubs and four canopy trees per 100 linear feet. See table 4 in section 48-1185 for minimum vegetation size requirements.
  - c. In cases where substantial grading results in a parking lot lower in elevation than the adjacent right-of-way, the resulting embankment should be planted with the required vegetation.
- (2) Perimeter parking lot landscaping adjacent to abutting properties.
  - a. Nonresidential zoned properties.
    1. A solid landscaped planting strip that is at least 3½ feet in height and at least ten feet in width shall be provided. This strip shall contain a minimum of 25 small shrubs and four canopy trees per 100 linear feet. See table 4 in section 48-1185 for minimum vegetation size requirements.
    2. Where the required landscaped strip abuts an existing hedge, wall or other durable barrier on the abutting property, the existing barrier may partially satisfy the landscape requirements of this subsection, provided that the existing hedge, wall or other durable barrier meets the screening height is attractive in appearance and the required trees have adequate space to grow.
  - b. Residential zoned properties. A solid landscaped planting strip at least that is five feet in height and at least ten feet in width shall be provided. This strip shall contain a minimum of 25 large shrubs and four canopy trees per 100 linear feet. See table 4 in section 48-1185 for minimum vegetation size requirements.

(Code 1982, § 38-30(c); Ord. No. 1766, 9-13-2004)

**Sec. 48-1182. Commercial, multifamily and mixed-use development interior parking lot landscaping.**

(a) Interior parking lot landscaping shall apply to all parking lots that are 3,420 square feet in size and/or whenever a site plan is required for the property upon which it is located. Interior parking lot areas shall be located and landscaped in such a manner as to divide and

break up the expanse of pavement and to provide for safe movement of vehicles and pedestrians. Furthermore, parking lots shall be adequately constructed to support shade trees, which reduce the negative environmental impacts of impervious surface area and improve the aesthetics of parking lots.

(b) Parking lot areas shall contain a minimum of five percent interior landscaping in addition to any required perimeter landscaping. Trees located in a required perimeter landscape planting strip shall not be credited toward the interior parking lot landscaping requirements. The five percent interior parking lot landscaping requirement calculations shall be clearly labeled and vegetation included in the calculations shown on the landscape plan.

(1) One planting island of a minimum area of 162 square feet shall be provided for every 3,240 square feet of parking lot area. Each planting island shall contain a minimum of one shade tree per 162 square feet, shrubs and/or groundcover throughout the entire area of the planting island.

(2) Required trees shall be located in islands or medians, between rows of parking spaces, and/or at the end of parking bays. Every parking space shall be located no more than 90 feet from an interior parking lot tree.

(3) Planting islands shall be a minimum inside dimension of nine feet by 18 feet in area, underlain by soil (not base course material) prepared to a minimum depth of 24 inches. Alternatively, structural soil or irrigation may be used to aid in the sustainability of the vegetation.

(Code 1982, § 38-30(d); Ord. No. 1766, 9-13-2004)

#### **Sec. 48-1183. Required buffer strips between zoning districts.**

Buffers between different adjacent zoning districts shall apply to all sites whenever a site plan is required for the property upon which it is located. These requirements do not apply to perimeter boundaries that are within the same zoning district. The purpose of the buffer is to visually integrate developments into the existing landscape, buffer lower density districts, and buffer and screen commercial uses, and ensure that a vegetative area of appropriate size and density is located between zoning districts.

(1) Buffers shall be continuous pervious planting areas with adequate space to support vegetation both above and below ground. No parking, drive aisles, and utilities shall be permitted in the buffer.

(2) The five buffer types are described in this subsection and are summarized in table 1. The matrix to determine the appropriate category to use, depending on the property's zoning district and the surrounding property's zoning district, follows in table 2. A property may abut more than one zoning district; in that case, a different requirement would apply to each side of the property.

a. Buffer A: A ten-foot-wide landscape planting strip with a minimum of 25 small shrubs and four canopy trees per 100 linear feet.

b. Buffer B: A ten-foot-wide landscape planting strip with a minimum of 25 small shrubs and four canopy trees per 100 linear feet. In addition to this vegetation, a screening element at least six feet in height must be created to consist of either a masonry wall, a combined three-foot-high earthen berm with the required landscaping located atop the berm, or a solid wood fence.

c. Buffer C: A seven-foot-wide landscape planting strip with a minimum of 12 evergreen trees per 100 linear feet. In addition to this vegetation, a screening element at least six feet in height must be created to consist of either a masonry wall or a solid wood fence.

d. Buffer D: A 20-foot-wide landscape planting strip with a minimum of 25 small shrubs, 25 large shrubs, 12 evergreen trees and four canopy trees per 100 linear feet.

- e. Buffer E: A 15-foot-wide landscape planting strip with a minimum of 25 large shrubs and four canopy trees per 100 linear feet. In addition to this vegetation, a screening element at least six feet in height must be created to consist of either a masonry wall, a combined three-foot-high earthen berm with the required landscaping located atop the berm, or a solid wood fence.

Table 1. Buffer Type and Vegetation Planting Density

Buffer Type	Minimum Width	*Shade Tree	Evergreen Tree	Small Shrub	Large Shrub	Screening Element
A	10'	4/100'		25/100'		No
B	10'	4/100'		25/100'		Yes
C	7'		12 /100'			Yes
D	20'	4/100'	12/100'	25/100'	25/100'	No
E	15'	4/100'			25/100'	Yes
*In the case of overhead utility lines, six understory trees per 100 feet shall be substituted for shade trees.						

(3) Buffers A, B, C, D, and E are minimum standards for the size and density of the vegetation in the buffer areas. The developer may substitute a more intense buffer type, for example, requirement B being higher than A. In certain situations, as shown in the Table 2, choices for buffer types are given.

(4) Existing topographic conditions, such as embankments or berms, may be substituted for part or all of the required buffer area at the discretion of the city arborist. The minimum visual effect shall be equal to or exceed that of the required buffer. The height of the berm shall be measured from the grade of the adjacent property.

(5) Existing trees and other vegetation may be used for buffers if they are healthy and are approved as part of the landscaping plan by the city arborist. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required landscape planting strip.

Table 2. Required Buffer Category by Proposed and Adjacent Zoning Districts\*

Zoning district (proposed development)	Zoning district(adjacent property)					
	R-1A	R-1B	R-C	R-TH	R-M	O-D
R-C**	A	A	N/A	A	A	A
R-TH	A	A	A	N/A	A	A
R-M	B or C	B or C	B or C	B or C	N/A	B or C
O-D	N/A	N/A	N/A	N/A	N/A	N/A
T-1	A	A	A	A	A	A
T-2	A	A	A	A	A	A
B-1	D or E	D or E	D or E	D or E	D or E	D or E
B-2	D or E	D or E	D or E	D or E	D or E	D or E
B-3	D or E	D or E	D or E	D or E	D or E	D or E
M-1	D	D	D	D	D	D
*More than one requirement may apply to a proposed development if it is adjacent to more than one zoning district.						



\*\*Buffer is required along the side and rear boundaries of the development abutting business districts. B-1, B-2 and B-3 districts were not included in chart as it only applied to R-C category.

(Code 1982, § 38-30(e); Ord. No. 1766, 9-13-2004)

**Sec. 48-1184. Design criteria.**

(a) *Preparation.* Landscape plans shall be prepared by a landscape architect, landscape designer, certified arborist or Virginia Certified Nurseryman (VCN).

(1) Vegetation should be chosen from the Recommended List of Trees and Shrubs to Plant in the City of Falls Church. The applicant may propose the use of vegetation or designs that fulfill the intent of this section, with the approval of the city arborist.

(2) Required vegetation in screening landscape planting strips, landscaping in interior parking lot areas and buffers shall be distributed over their entire lengths and widths.

(3) Vegetation may be arranged symmetrically (formal) or asymmetrically (informal) and shall be grouped to form plant clusters. Informal groupings that reflect the natural character of the region are encouraged.

(b) *Diversity and variety.* To increase the diversity of the age and species in the urban forest, consideration shall be given to save mature trees and to plant trees on sites where the tree population is over maturing. Also, to allow for a variety of interest in form, color and height to reduce the opportunity for pest and disease population increase, the following chart shall be used to select the appropriate number of species:

Table 3. Plant Diversity Chart

Number of Plant Materials	Minimum Number of Species	Maximum of any one Species (in percent)
0—5	1	100
6—15	2	50
16—30	3	40
31—50	4	30
50 +	6	20

(c) *Location, dimension and spacing.* The location, dimension and spacing of required plantings shall be adequate for their proper growth and maintenance, taking into consideration the sizes of such plantings at maturity and the present and future environmental requirements, such as wind, soil, moisture and sunlight.

(d) *City parkland or other ecologically sensitive areas.* Where the required plantings abut city parkland or other ecologically sensitive areas, vegetation shall be noninvasive and be selected from indigenous trees, shrubs and perennials. This is to restrict the introduction of invasive plant species; vegetation shall be determined by the city arborist.

(e) *Foundation plantings.* To soften the edge of the building in the landscape, a five-foot-wide planting area may be required in instances where the proposed building is not abutting the public right-of-way, sidewalks or parking lot. Vegetation should achieve a minimum of 3½ feet to five feet in height.

(f) *Street trees.* Street trees shall be required when they abut or lie within a proposed subdivision or development and/or redevelopment along all proposed public and private streets.

(1) Where there is no public right-of-way, a perpetual easement for street tree planting and maintenance may be requested of the developer and recorded on the development plan.

(2) Trees placed in the public right-of-way shall become the responsibility of the city to maintain and replace.

(3) Tree canopy coverage provided by street trees planted in conjunction with residentially zoned R1-A or R1-B lots may be credited towards the lot's minimum canopy coverage requirements.

(g) *Off-street parking structures.* Off-street parking structures shall conform to all applicable provisions of article V, division 6 of this chapter, pertaining to yard requirements. Landscaping shall be provided and maintained in all yards. Suitable facades shall be provided as part of the structure. Landscaping requirements shall not apply to parking spaces within such structures. A wall at least 3½ feet in height shall surround any parking which is on top of a structure, and suitable plantings shall be provided to buffer the view of such parking from nearby properties and rights-of-way.

(h) *Landscape borders.* All landscaped areas adjacent to any vehicular travel way, parking space or other vehicular use area shall be bordered by a six-inch concrete header curb. Wheel stops or other appropriate devices may be substituted when the department of public works determines that such alternative devices are needed for drainage purposes.

(i) *Sight distance for landscaping adjacent to points of access.* Plantings shall be selected and located so they do not contribute to conditions that may be hazardous to public safety. Such locations include, but are not limited to, public street rights-of-way, underground and aboveground utilities.

(j) *Accessway interacting with public right-of way.* When an accessway intersects a public right-of-way, all landscaping within the triangular areas described in this subsection shall provide unobstructed horizontal visibility between three feet and six feet above pavement level. Tree trunks may be permitted in these areas provided they do not constitute a traffic hazard. The triangular areas referred to in this subsection are formed by each side of the accessway and public right-of-way line, with each side being ten feet in length from the point of intersection, and the third side being a line connecting the ends of the two other sides.

(k) *Landscaping adjustments after installation.* In the event that the landscaping materials approved by the planning commission cannot be installed due to unavailability, or if the installed varieties fail, substitute materials may be installed, provided they are approved by the city arborist.

(l) *Exceptions.* The planning commission may waive or modify the requirements of this section where adjacent properties are developed under a unified site plan or where the strict interpretation of these provisions would reduce the usable area of a site to a point that would preclude a reasonable use. In such instances, special landscaping and/or architectural techniques may be required in lieu of the requirements of this subsection. The planning commission may also attach conditions to any such waiver or modification to ensure that the results of the waiver or modification shall be in accord with the purposes and intent of this subsection.

(Code 1982, § 38-30(f); Ord. No. 1766, 9-13-2004)

#### **Sec. 48-1185. Bonding, installation, specifications and maintenance of vegetation.**

The following shall apply to all vegetation or transplanted vegetation as required under this section. All vegetation shall meet the minimum standards for health, form, and root condition, as outlined in the latest edition of American Standard for Nursery Stock, published by the American Association of Nurserymen (AAN).

(1) *Installation under inspection of city arborist.* Installation and bonding requirements of vegetation shall be regulated pursuant to section 48-1143. All installation of the vegetation shall be carried out under the inspection of the city arborist. Installation may be spot checked by the city arborist.

Table 4. Vegetation and Minimum Size Chart

Type of Vegetation	Minimum Size at Planting	Size at Maturity
Shade tree	2 - 2 1/2" caliper	>40'
Understory tree	2 - 2 1/2" caliper	<40'
Evergreen tree	6'	12 - 20'
Large shrub	24"	>5'
Small shrub	24"	>3 1/2'

(2) Vegetation substitutions. Due to seasonal planting issues or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the city arborist, if there is no reduction in the quantity or significant change in size or location of vegetation and the new vegetation has the same general design characteristics (approved species, mature height, crown spread) as the vegetation being replaced.

(3) Responsibility of property owner for maintenance. It shall be the ultimate responsibility of successive property owners to ensure that the required vegetation is properly maintained in compliance with the approved site plan in perpetuity. Dead or diseased plant material shall be removed or treated promptly by the property owner and replaced within 180 days.

(4) Maintenance guidelines. Maintenance guidelines for the plantings are encouraged, to be published by the planting plan designer, to be used by grounds maintenance personnel to ensure that the design's buffering and screening concepts are continued. The City of Falls Church Landscape Maintenance Guidelines shall be adhered to at a minimum and shall be shown on all landscape plans.

(5) Safety. All sight triangles shall remain clear, and any plant material that could endanger safety, such as, unstable limbs shall be removed and the plant material replaced, if necessary. It shall be the responsibility of the property owner to maintain all plantings and architectural elements to ensure a safe environment.

(6) Plan approval. Plans submitted only for landscaping additions or deductions shall be considered by the planning commission following recommendations from the city arborist and the architectural advisory board, as part of the site plan process. Applicants are required to consult with the city arborist in advance of plan preparation in order to determine what trees, shrubs and other landscape materials are preferred.

(7) Review of landscaping guidelines, planting design, materials. Specific landscaping guidelines, planting design, and materials shall be reviewed by the city arborist and by the planning commission during the site plan review process and shall be in accordance with the guidelines established by the city.

(8) Vegetation installed prior to occupancy; exception. All vegetation required by this section, except vegetation on single-family residential lots as detailed in section 48-1180, must be installed prior to the occupancy of the site. Where compliance with this regulation is not possible because of seasonal planting limitations, the city arborist shall grant an appropriate delay.

(Code 1982, § 38-30(g); Ord. No. 1766, 9-13-2004)